

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MATTHEW ALLEN,

Petitioner,

v.

ORDER

08-cv-665-bbc

DEPT. OF CORRECTIONS,
RICK RAEMISCH (Secretary) and
MATT HANEMAN, Agent for
Department of Corrections,

Respondents.

On December 10, 2008, I granted petitioner an extension of time until January 1, 2009, in which to pay his initial partial payment of \$5.30. The court has not received petitioner's payment. Instead, petitioner has submitted a letter dated December 16, 2008, in which he attempts to explain why he has been unable to pay the assessed amount. Unfortunately, because he has not paid the initial partial payment he has been assessed in this case, petitioner cannot continue with his lawsuit.

Previously this court addressed the issue whether petitioner's debts for filing fees in another court were preventing him from paying the amount he has been ordered to pay in this case. In the order, this court noted that it may be necessary for the warden of Jackson Correctional Institution to look into the matter because it appeared that the income petitioner

received in his account was immediately debited to pay for state court filing fees and other debts. However, in his current letter, petitioner states that cannot make his initial partial payment because he has not received any income since he was placed in segregation on November 20, 2008 and does not expect to do so until May 2009. Thus, regardless of the issue of petitioner's previous income being taken for other debts, he is not currently able to make his initial partial payment.

Because petitioner has failed to pay the initial partial payment in this case despite an extension of the deadline, this case must be dismissed without prejudice. If, at some future time, petitioner is able to make the initial partial payment or enough time elapses that his trust fund account statement would show that he has had no income for a full six-month period, he would be free to refile this lawsuit.

ORDER

IT IS ORDERED that this case is DISMISSED without prejudice to petitioner's refiling his lawsuit at some future time.

Entered this 7th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge